

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,

Plaintiff

v.

KENNETH D. KYLER, individually, and :
in his official capacity, et al.,

Defendants

No. 1:CV-00-0315

(Judge Rambo)

(Magistrate Judge Smyser)

FILED
HARRISBURG

JUN 26 2001

MARY E. D'ANDREA, CLERK
Per 9/8 DEPUTY CLERK

**MOTION OF DEFENDANTS FOR ENLARGEMENT OF TIME TO FILE THEIR
BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR ORDER REQUIRING SCI-
GREENE OFFICIALS TO RETURN PLAINTIFF'S LEGAL MATERIALS**

Defendants hereby move for an enlargement of time to file their brief in opposition to plaintiff's motion for order requiring SCI-Greene officials to return plaintiff's legal materials. In support of this motion, defendants assert the following:

1. This is a civil rights action seeking a relief for various constitutional violations by prison officials.
2. On April 17, 2001, this Court ordered that discovery be completed by June 11, 2001, and that plaintiff file his opposition to defendants' motion for summary judgment by June 18, 2001.
3. On June 8, 2001, the plaintiff filed a motion for an order requiring SCI-Greene officials to return plaintiff's legal materials and an accompanying brief.
4. The plaintiff did not serve a certificate of service upon counsel for defendants showing when the motion was served. Counsel believes that the motion was served on or about June 6, 2001. Accordingly, allowing an additional three days because the brief was served by mail, defendants' brief opposing the motion was due on June 25, 2001.

5. On the same day that plaintiff filed the motion for his legal materials, he filed three other motions with accompanying briefs. Counsel has responded to two of these motions. In addition, this counsel was required to prepare for a hearing in *Swerdon v. Varner, et al.* No. 3:CV-01-5181 (M.D. Pa.), on June 19, 2001, attend depositions on June 21, 2001 in *Clark v. Houstoun*, No. 4:00-CV-1306 (M.D. Pa.), prepare a reply brief in *Jae v. Dragovich*, No. 1:CV-00-2123 (M.D. Pa.), and a brief in opposition to class certification on June 25, 2001, in *Clark v. Houstoun*. Due to these and other obligations, counsel has not completed the brief in opposition to Jae's motion for legal papers.

6. Accordingly, defendants request an enlargement of time of one week, or until July 2, 2001, to file a brief in opposition to plaintiff's motion for legal materials.

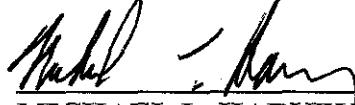
7. This short enlargement of time will not unduly delay this matter nor will it prejudice the plaintiff.

WHEREFORE, defendants request an enlargement of time of a week, or until July 2, 2001, to file their brief in opposition to plaintiff's motion for order requiring SCI-Greene prison officials to return plaintiff's legal materials.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


MICHAEL L. HARVEY
Senior Deputy Attorney General
Attorney I.D. #30098

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Counsel for DEFENDANT
CHRISTOPHER O'BRIEN

OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
PHONE: (717) 787-6896
FAX: (717) 772-4526
DATE: June 26, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 1:CV-00-0315
	:	
KENNETH D. KYLER, individually, and	:	(Judge Rambo)
in his official capacity, <u>et al.</u> ,	:	
	:	(Magistrate Judge Smyser)
Defendants	:	

CERTIFICATE OF SERVICE

I, Michael L. Harvey, Senior Deputy Attorney General, hereby certify that on this date I caused to be served a copy of the foregoing document by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

John Richard Jae, BQ-3219
SCI-Greene
175 Progress Drive
Waynesburg, PA 15370-2902



MICHAEL L. HARVEY
SENIOR DEPUTY ATTORNEY GENERAL

DATE: June 26, 2001